

STEPHANIE HINDS, CSBN 154284
Acting United States Attorney
DEBORAH L. STACHEL, CSBN 230138
Regional Chief Counsel, Region IX
Social Security Administration
ANDREA BANKS, CSBN 275286
Special Assistant United States Attorney
160 Spear Street, Suite 800
San Francisco, California 94105
Telephone: (510) 970-4803
Facsimile: (415) 744-0134
Andrea.Banks@ssa.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KRYSTLE N. TESKEY,

Plaintiff,

vs.

KILOLO KIJAKAZI,¹

Acting Commissioner of Social Security,

Defendant.

CIVIL NO. 1:21-cv-03296-RMI

PROPOSED ORDER AND
~~UNOPPOSED~~ MOTION FOR
EXTENSION OF TIME TO FILE THE
ELECTRONIC CERTIFIED
ADMINISTRATIVE RECORD AND
ANSWER TO PLAINTIFF'S
COMPLAINT

Defendant, Kilolo Kijakazi, Acting Commissioner of Social Security (the "Commissioner"), by and through her undersigned attorneys, hereby moves for a 35 day extension of time to file Defendant's Electronic Certified Administrative Record and Answer to Plaintiff's Complaint by September 21, 2021.

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 On August 11, 2021, the undersigned counsel for the Commissioner has confirmed this case is in line to
2 be processed by the agency. More time is needed for the agency to respond to Plaintiff's complaint due
3 to the COVID-19 pandemic.

4 In light of the global COVID-19 pandemic, SSA has taken the unprecedented step of suspending
5 in-office services to the public: <https://www.ssa.gov/coronavirus/>. For purposes of this particular case,
6 the public health emergency pandemic has significantly impacted operations in the Social Security
7 Administration's Office of Appellate Operations (OAO) in Falls Church, Virginia. That office is
8 responsible for physically producing the administrative record that is required to adjudicate the case
9 under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C. § 405(g) and (h). *See* SSA Program
10 Operations Manual System GN 03106.025.

11 The agency has updated its declaration explaining this delay. As shown in the attached
12 declaration from June 14, 2021, the agency continues to add staff and augment the vender capacity to try
13 to increase the speed of processing transcripts. The agency has processed more transcripts in the first
14 quarter of FY 2021 (over 5000 cases), than it did in either the first quarters of FY 2020 and FY 2019.
15 However, delays remain and the agency needs more time in this case. The agency is prioritizing older
16 cases first, and once the agency receives the eCAR, the undersigned counsel will review it and file it
17 with the Court.

18 If a Court issues an order limiting the agency's time to process these cases, the agency then
19 needs to divert already strained and finite resources from its current process to try to accommodate such
20 one-off orders. Although overall the timeframe for delivering an administrative record has improved, the
21 backlog, prioritizing aged cases, and contractor capacity continue to cause some delays.

22 Given the volume of pending cases and the continued constraints, Defendant requests a 35 day
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1 extension in which to respond to the Complaint until September 21, 2021. On August 11, 2021,
2 Defendant contacted Plaintiff's counsel about this extension request and Plaintiff's counsel does not
3 oppose the extension.
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5 Respectfully submitted,

6 Dated: August 11, 2021

STEPHANIE HINDS
Acting United States Attorney

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8 By: /s/ Andrea Banks
ANDREA BANKS
Special Assistant United States Attorney
Attorneys for Defendant
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12 IT IS SO ORDERED:

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14 HONORABLE ROBERT M. ILLMAN
U.S. MAGISTRATE JUDGE

15 DATE: August 11, 2021
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